

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

NATHAN FREMONT GREEN,

Plaintiff,

vs.

COUNTY OF GALLATIN, OFFICER
NEWTON, GALLATIN COUNTY
DETENTION CENTER, and
GALLATIN COUNTY SHERIFF'S
DEPARTMENT,

Respondent.

CV-17-13-BU-BMM-JCL

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

Plaintiff Nathan Green (“Mr. Green”) is a former state prisoner proceeding without counsel. Mr. Green alleged that while incarcerated at the Gallatin County Detention Center, Defendant Officer Newton refused to allow Mr. Green to use a toilet for an undefined period of time as a form of alternative punishment for Mr. Green not making his bed. (Doc. 42 at 2). Mr. Green alleged also that Officer Newton agreed to allow Mr. Green to use the toilet on the condition that Mr. Green wash windows as an alternative punishment. *Id.* Officer Newton punished Mr. Green when Mr. Green failed to wash the windows. *Id.*

Defendants moved the Court for Summary Judgment and requested that the Court dismiss Mr. Green's claims. The United States Magistrate Judge Lynch entered Findings and Recommendations in this matter on April 10, 2019. (Doc. 42). Judge Lynch determined that Mr. Green had failed to exhaust administrative remedies prior to filing a lawsuit. (Doc. 42 at 8). Judge Lynch recommended that Defendants motion for summary judgment be granted and the action dismissed without prejudice. *Id.* at 9.

The Court reviews de novo Findings and Recommendations timely objected to. 28 U.S.C. § 636(b)(1). The Court reviews for clear error the portions of the Findings and Recommendations not specifically objected to. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Where a party's objections constitute perfunctory responses of the same arguments set forth in the original response, however, the Court will review for clear error the applicable portions of the Findings and Recommendations. *Rosling v. Kirkegard*, 2014 WL 693315 *3 (D. Mont. Feb. 21, 2014) (internal citations omitted).

Mr. Green timely filed his objections. (Doc. 46). Mr. Green claims that he "can only again argue that the Gallatin County Jail's grievance system was unduly complicated." *Id.* These objections present simply the same arguments that Judge Lynch addressed in his Findings and Recommendations, (Doc. 42), and the Court finds no clear error in Judge Lynch's Findings and Recommendations.

ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Lynch's Findings and Recommendations (Doc. 42) are **ADOPTED IN FULL**.

IT IS ORDERED that Defendants Gallatin County and Officer Newton's motion for summary judgment is **GRANTED**, and the action is **DISMISSED** without prejudice pursuant to 42 U.S.C. § 1997e(a).

The Clerk of the Court is directed to close this matter and enter judgement in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of the Court is directed to make a docket entry reflecting that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.

DATED this 25th day of June, 2019.



Brian Morris
United States District Court Judge